

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

CENTRAL STATES, SOUTHEAST AND	)	
SOUTHWEST AREAS PENSION FUND,	)	
and ARTHUR H. BUNTE, JR., trustee,	)	Case No. 12 C 7715
	)	
Plaintiffs,	)	Honorable
	)	Judge Milton I. Shadur
v.	)	
	)	
E. LOUISE CARDWELL, an individual,	)	
	)	
Defendant.	)	

**PLAINTIFFS' MOTION FOR PROVE-UP OF DAMAGES  
AND FOR ENTRY OF JUDGMENT**

NOW COME Plaintiffs, Central States, Southeast and Southwest Areas Pension Fund (the "Fund") and Arthur H. Bunte, Jr., Trustee (collectively, the "Plaintiffs"), by and through their counsel, and hereby submit Plaintiffs' Motion for Prove-up of Damages and for Entry of Judgment, and state as follows:

**BACKGROUND**

1. On September 27, 2012, Plaintiffs initiated this action against Defendant E. Louise Cardwell under the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("MPPAA"), 29 U.S.C. § 1001 *et seq.*, and under Minnesota's Uniform Fraudulent Transfer Act, Minn. Stat, § 513.41, *et seq.*

2. On December 14, 2012, Cardwell filed her Answer to Plaintiffs' Complaint. (Dkt. No. 19.)

3. On March 18, 2014, Plaintiffs filed their Motion for Summary Judgment. (Dkt. Nos. 35, 36 and 37.)

4. On June 6, 2014, the Court granted Plaintiffs' Motion for Summary Judgment on the issue of liability. (Dkt. No. 25.)

5. After this Court's June 6, 2014 ruling, the parties were directed to confer regarding the amount of damages and submit a proposed judgment order to this Court. Plaintiffs promptly provided Defendant with a proposed judgment amount, along with supporting documentation. However, Defendant has failed to respond as to whether she agrees or disagrees. Therefore, Plaintiffs have filed this Motion is filed.

6. Plaintiffs hereby submit the Affidavit of Andrew Sprau ("Sprau Aff.") and the Affidavit of Rebecca McMahon ("McMahon Aff."), attached hereto as Exhibits A and B, respectively, in support of their Motion for Prove-up of Damages and for Entry of Judgment.

#### **CALCULATION OF REQUESTED JUDGMENT AMOUNT**

7. This action was brought against Cardwell in connection with a fraudulent transfer of certain real property that prevented Plaintiffs from collecting on a judgment previously entered against Healy Spring Company and in favor of Plaintiffs in the case of *Central States, Southeast and Southwest Areas Pension Fund v. Healy Spring Company*, Case No. 08 CV 2515 (N.D.Ill.) ("the Healy Spring Judgment").

8. In this Court's June 6, 2014 Memorandum Opinion and Order, the Court held that the transfer of the real property from Healy Spring Company to Cardwell was fraudulent. (Memorandum Opinion and Order, Dkt. No. 53, p. 8.)

9. Based on this Court's ruling and the relief sought in the Complaint, Plaintiffs are entitled to a judgment for any amounts that Cardwell received as a result of the transfer and subsequent sale of the real property -- up to the amount of the balance on the Healy Spring Judgment -- plus reasonable attorney's fees and costs.

10. Cardwell received \$332,330.17 from the subsequent sale of the real property that was fraudulently transferred to her from Healy Spring Company. (Plaintiffs' Statement of Material Facts, Dkt. No. 37, ¶ 50.)

11. The Healy Spring Judgment was entered on December 18, 2008, in the amount of \$243,479.93. (Exhibit C, Healy Spring Judgment.)

12. The Healy Spring Judgment provided for post-judgment interest on "the entire judgment balance at an annualized interest rate equal to two percent (2%) plus the prime interest rate established by Chase Manhattan Bank (New York, New York) for the fifteenth (15<sup>th</sup>) day of the month for which interest is charged and shall be compounded annually." (Exhibit C, Healy Spring Judgment, p. 4.)

13. Through August 7, 2014, Cardwell owes Plaintiffs the total amount of \$81,635.68 in post-judgment interest on the Healy Spring Judgment. (Ex. A, Sprau Aff., ¶ 6.)

14. Plaintiffs brought this action, in part, under 29 U.S.C. § 1451, and therefore are also entitled to reasonable attorney's fees and costs incurred.

15. The attorney's fees total \$17,143.50 and costs total \$1,880.48. (Ex. B, McMahon Aff., ¶¶ 5, 7.)

16. Thus, Plaintiffs seek a judgment in the total amount of \$334,821.06.

17. A copy of the Proposed Judgment Order is attached hereto as Exhibit D, and in accordance with the Court's rules, will be submitted to the Court electronically.

WHEREFORE, Plaintiffs, Central States, Southeast and Southwest Areas Pension Fund and Arthur H. Bunte, Jr., Trustee, request entry of an order as follows:

(A) Entry of judgment in the total amount of \$344,139.59 in favor of Plaintiffs and against Defendant. This amount is comprised of the following: (i) the balance of \$325,115.61

currently owed on the Healy Spring Judgment; (ii) attorney's fees in the amount of \$17,143.50; and (iii) costs in the amount of \$1,880.48;

(B) For such other relief deemed just and proper.

Respectfully submitted,

/s/ Rebecca K. McMahon

Rebecca K. McMahon (ARDC #06290192)

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August 7, 2014

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**CERTIFICATE OF SERVICE**

I, Rebecca K. McMahon, one of the attorneys for the Central States, Southeast and Southwest Areas Pension Fund, certify that on August 7, 2014, I caused the foregoing Plaintiffs' Motion for Prove-Up of Damages and for Entry of Judgment to be filed electronically. This filing was served on all parties indicated on the electronic filing receipt via the Court's electronic filing system.

/s/ Rebecca K. McMahon \_\_\_\_\_  
Rebecca K. McMahon (ARDC #06290192)  
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